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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROOTS READY MADE GARMENTS CO.
W.L.L.,

Plaintiff,

v.

THE GAP, INC., a/k/a GAP, INC., GAP
INTERNATIONAL SALES, INC.,
BANANA REPUBLIC, LLC, OLD NAVY,
LLC,

Defendants.

Case No.: C 07 3363 CRB

PLAINTIFF'S EX PARTE APPLICATION
TO EXTEND TIME TO SERVE EXPERT
DISCLOSURE

Date: N/A
Time: N/A
Courtroom: 8, 19th Floor
Judge: Charles R. Breyer

Pursuant to Civil Local Rule 6-3, Plaintiff Roots Ready Made Garments Co. W.L.L. ("Plaintiff" or "Roots") respectfully submits this ex parte application for a five-day extension of time, until August 18, 2008, to serve its expert disclosure. Plaintiff's counsel attempted unsuccessfully to obtain Defendants' consent to the adjournment. The proposed adjournment will not materially effect the schedule in this case. Fact discovery is now complete, and the trial is not scheduled to commence until October 6. For these reasons, Plaintiff's ex parte application should be granted.

Factual Background

On March 13, 2008, the parties stipulated to the following schedule for expert discovery:

- Expert disclosures will be due on or before July 14, 2008;
- Rebuttal disclosures will be due on or before July 28; and
- Expert discovery will close on August 11, 2008.

3/13/08 Stip. (Doc. # 132); Nash Decl., ¶ 3. In June, Gap's counsel requested that the deadlines for expert disclosures and rebuttal disclosures be extended by one week to July 21 and August 4. *Id.*, ¶ 4. Roots' counsel consented to Gap's request for an extension, but made a counter-proposal that the deadlines be set for July 28 and August 11. *Id.* In response, Gap stated that those dates did not work, "but pushing it back one week would." *Id.* Accordingly, on June 26, 2008, the parties agreed that expert disclosures would be due on August 4, and rebuttal disclosures on August 18. *Id.*

Roots later determined that to prepare its damages report, it would be necessary to arrange an overseas trip to Roots' headquarters in Dubai, United Arab Emirates. *Id.*, ¶ 5. The earliest the trip could be scheduled was the week of August 4. *Id.*, ¶ 6. Accordingly, on July 25, Roots' counsel, Bradley Nash, contacted Gap's counsel requesting their "consent to adjourn the expert discovery deadlines by two weeks (*i.e.*, to August 18 for the disclosures and September 1 for the rebuttals)." *Id.*, ¶ 7. On July 29, Gap's counsel, Rose Darling, responded that "the vacation schedules of our expert and attorneys conflict with those dates." Ms. Darling stated that if the current dates were "impossible for you, please let me know so that we can discuss further." *Id.*, ¶ 8.

Later that day, Roots' counsel, Bradley Nash, contacted Ms. Darling to meeting and confer concerning the expert discovery deadlines. *Id.*, ¶ 9. Mr. Nash explained that because of the difficulty of arranging international travel during the summer vacation season, the current schedule was not workable for Roots. *Id.* Ms. Darling responded that Gap's expert had a vacation planned for the first week in September. *Id.* Mr. Nash stated that Roots would agree to give Gap until September 8 for its rebuttal disclosure to accommodate the expert's vacation. *Id.* Ms. Darling agreed to consider the proposal. *Id.*

1 On Friday, August 1, following several meet-and-confer conferences, Gap's counsel
2 consented to extend Roots' time to file for its expert report until August 13. *Id.*, ¶ 10. Mr. Nash
3 responded that although Roots would make every effort to complete the report by August 13, if
4 the deadline proved unworkable, Roots reserved its right to seek relief from the court. *Id.*

5 Argument

6 Roots' request for a brief, five-day extension to serve its expert report is entirely
7 reasonable. Extending the deadline for expert disclosures to August 18 – seven weeks before
8 the trial date – will result in no prejudice to any party. Roots' proposal will have no impact on
9 any pre-trial deadlines. In particular, if Gap wishes to file any motion in limine in respect of
10 Roots' expert disclosure, it will have ample time to do so, as motions in limine are not due until
11 September 10. Gap has stated that its expert is on vacation during the first week in September,
12 but for this reason, Roots proposed to give Gap until September 8 to file its rebuttal disclosure.
13 In the event that the September 8 date present a conflict for Gap, Roots is ready and willing to
14 negotiate another date for the rebuttal disclosure.

15 For these reasons, Roots respectfully requests that the Court grant its ex parte application
16 for a five-day extension of time, until August 18, 2008, to serve its expert disclosure.

17
18 DATED: August 13, 2008

COVINGTON & BURLING

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20 By: /s/
BRADLEY J. NASH

21 Attorneys for
22 ROOTS READY MADE GARMENTS CO.
23 W.L.L.
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